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RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

November 10, 2010

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| II RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS: | |
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| III RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA: | |
| Governing Board action is required on petitions received requesting a waiver of District criteria. Section 120.542, F.S. and Rule 28-104.002, F.A.C., requires agencies to grant variances and waivers to their own rules when a person subject to the rules files a petition and demonstrates that he or she can achieve, or has achieved, the purpose of the underlying statute by other means and when application of rule would create a substantial hardship or would violate principles of fairness. A "substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. A "waiver" is defined as an agency decision not to apply all or part of a rule to the person subject to the rule. | - 4 |
| IV CONCURRENCE WITH EXECUTIVE DIRECTOR'S EMERGENCY AUTHORIZATIONS: | |
| Governing Board action is required to concur with the emergency authorization issued by the Executive Director, in accordance with 373.119(2), F.S., as the Executive Director deems necessary to meet the emergency. Items are placed on this Consent Agenda for concurrence. | - 5 |

RIGHT OF WAY OCCUPANCY NEW PERMITS

1. DENNIS MARRONE
COUNTY: BROWARD

Permit Number 13747
Emergency Order NO.
2009-242-DAO
Appl. Number- 09-0902-1M

AUTHORIZING:

REPAIR PORTION OF EXISTING SEAWALL, REPLACE EXISTING MOORING PILES AND RELOCATE POWER PEDESTAL WITHIN THE SOUTH RIGHT OF WAY OF THE DANIA CUT-OFF CANAL AT THE REAR OF 305 NE 5 COURT.

LAST DATE FOR BOARD ACTION: **11/10/2010**
(Fee)

2. SIEGFRIED AND ROSSMERY PIRKAU
COUNTY:MIAMI-DADE

Permit Number 13738
Appl. Number 10-0820-3
Easement

AUTHORIZING:

EXISTING FENCE ENCLOSURE ENCROACHING 25' (10' FROM TOP OF BANK), A TEMPORARY STORAGE SHED WITHIN FENCED AREA AND 2 TREES OUTSIDE THE FENCED AREA WITHIN THE EAST RIGHT OF WAY OF C-100A AT THE REAR OF 14270 SW 74 COURT. (LOT 5, BLOCK 4, TANGLEWOOD ESTATES). (LOCATED IN AREA OF PREVIOUS RULE RELAXATION).

LAST DATE FOR BOARD ACTION: **11/20/2010**

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. JOHN M. WRIGHT
COUNTY:ST. LUCIE

Permit Number 11274
Appl. Number 10-0902-1M

Easement

AUTHORIZING:

EXISTING LIFT WITHIN THE NORTH RIGHT OF WAY OF C-24 AT THE REAR OF 2008 S.W. VILLANOVA ROAD (LOT 15, BLOCK 1340, PORT ST. LUCIE SECTION 11).

LAST DATE FOR BOARD ACTION: **11/10/2010**

2. FLORIDA'S TURNPIKE ENTERPRISE
COUNTY:BROWARD

Permit Number 469
Appl. Number 09-1207-1M

Fee and Easement

AUTHORIZING:

FLORIDA TURNPIKE BRIDGE AND SUNRISE BOULEVARD INTERCHANGE IMPROVEMENTS CONSISTING OF BRIDGE WIDENING, 2 ADDITIONAL RAMPS, BULKHEAD, BANK STABILIZATION, GUARDRAIL, LIGHTING, SIGNAGE AND DRAINAGE OUTFALLS WITH CATCH BASINS WITHIN THE NORTH AND SOUTH RIGHTS OF WAY OF C-12. (PER PLANS DATED 07-19-2010).

LAST DATE FOR BOARD ACTION: **WAIVED**

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF CRITERIA

1. Consideration of a request by **Mirtha Marshall** (Application No. 10-0702-4, Permit Number 13742) for issuance of a Right of Way Occupancy Permit to allow existing dock, water and electric, fence, landscaping, pool heater to remain and Waiver of the District's criteria to allow an existing lawn security light pole to remain within the north right of way of the Hillsboro Canal at the rear of the 23420 Mirabella Circle South, Boca Raton, FL. Location: Palm Beach County, Section 33, Township 47 South, Range 42 East.

The applicant's request for Waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank within Works and Lands of the District is based on "principles of fairness". The applicant asserts that the lawn light pole has existed since prior to her purchase of the property four years ago and it has not impeded District and/or the District's contractor vehicular use. Applicant states that the light pole provides safe lighting for night use of the dock. Also, many other homes along within this reach of the canal have similar permitted separate light poles and/or much larger trellis structures within the right of way at the top of bank. The District's Operations Resource Management staff has determined that the existing above-ground facilities do not significantly interfere with the District's access and ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 36, Number 22* of the *Florida Administrative Weekly* on *October 22, 2010*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit No. 13742 and **approval** of the petition for Waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank within Works or Lands of the District.

(Easement)

EMERGENCY AUTHORIZATION WITH RIGHT OF WAY OCCUPANY PERMIT

Enter a final Order concurring with the Executive Director's emergency authorization issued to Dennis Marrone for immediate repair and/or replacement of a failing seawall on Works or Lands of the District known as the Dania Cut-Off Canal, Broward County, FL, subject to Chapter 40E-6, F.A.C. (Order No. 2010-187-DAO).

The Right of Way Occupancy Permit authorizing this use of the Works or Lands of the District is contained in the Right of Way Occupancy Permit section as well.